



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

BJG  
Docket No: 4761-99  
15 October 1999

MSGT [REDACTED] SR USMC  
[REDACTED]

Dear Master Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

It is noted that the Commandant of the Marine Corps (CMC) has processed your contested fitness report for 1 November 1997 to 18 May 1998 as an adverse report.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 14 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB), dated 26 July 1999, a copy of which is attached. They also considered your letter dated 3 August 1999 with enclosures.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB.

The Board noted that Marine Corps Order (MCO) P1610.7D, paragraph 4006.6, clarifies that the "no" entry in item 17b of your contested fitness report does not mean the report itself is not adverse; rather, it means you were not the subject of any adverse material or incident report from outside your fitness reporting chain. They concluded that your having had a different reporting senior for your fitness report following the report at issue proved neither that your primary duty did not change, nor that you were relieved for cause. Since your reviewing officer added no new adverse information, they concluded that the administrative third sighting by HQMC was sufficient. Finally, they noted that MCO 1610.15B, Subject:

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Enlisted Substandard Performance Notification, was cancelled on 30 April 1997, before the reporting period in question, so it is inapplicable to your case.

In view of the above, your application for relief beyond that effected by CMC has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure

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1610  
MMER/PERB  
JUL 26 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF  
MASTER SERGEANT [REDACTED] S [REDACTED] USMC

Ref: (a) MSgt. [REDACTED] DD Form 149 of 18 Oct 98  
(b) MCO P1610.7D w/Ch 1-5

Encl: (1) Completed Fitness Report 971101 to 980518 (CD)

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 22 December 1998 to consider Master Sergeant [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 971101 to 980518 (CD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report is inaccurate, unjust, adverse, and not in compliance with reference (b). He also believes that several of the assigned marks in Section B do not correlate with the narrative comments in Section C. As a final issue, the petitioner disclaims any counseling during the seven months covered. To support his appeal, the petitioner provides a copy of a counseling sheet, a copy of his Master Brief Sheet, and copies of other fitness reports.

3. In its proceedings, the PERB concluded that the overall tenor of the narrative comments are such that the petitioner should have been required to acknowledge the adversity of the evaluation and be provided an opportunity to respond. Owing to the relative recency of the report at the time the PERB first considered reference (a) (seven months), the Board determined that referral at that time would be appropriate. That action has been completed and the petitioner has appended an official statement of rebuttal.

a. Contrary to the petitioner's arguments, the Board discerns nothing blatantly inconsistent between any of the marks in Section B and the comments in Section C. Likewise, we find absolutely nothing to show that the petitioner was, as he contends, relieved for cause, or that the report fails to reflect his true performance during this finite period.

encl (b) pg 1 of 2

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
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b. In his official statement of rebuttal, the petitioner challenges the processing of the report and narrates the circumstances surrounding its submission and the overall reporting period. In the Reviewing Officer's comments, however, that individual concurs in the evaluation as written and finds that it was "just and warranted." Despite the petitioner's arguments to the contrary, and notwithstanding his performance documented in other fitness reports, the Board finds no proof to support any of his arguments. To this end, the Board concludes that the petitioner has failed to establish the existence of either an error or an injustice.

c. It is the Board's position that the absence of **documented counseling** does not establish that some type of performance counseling did not occur during the stated reporting period. Counseling can and does take many styles and forums, some of which may not be readily apparent to the recipient. Certainly the inherent relationship between the Reporting Senior and the petitioner (Aircraft Maintenance Officer/Maintenance Chief) would have ensured some type of performance feedback.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report, as reflected in the enclosure, should remain a part of Master Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

D. I. [REDACTED]  
C. [REDACTED]  
Evaluation Review Board  
Personnel Management Division  
Manpower and Reserve Affairs  
Department  
By direction of the Commandant  
of the Marine Corps